

SUPPLEMENTARY CONDITIONS

The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201-2007. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect.

Unless noted otherwise, all references are to Articles and Sections of AIA Document A201-2007, General Conditions of the Contract for Construction.

See also related topics in Division 1 – General Requirements for additional requirements.

Note: Any use of the term 'Architect' in these Supplementary Conditions shall be construed to mean 'Engineer'.

REFERENCE ARTICLE 1 - GENERAL PROVISIONS

1. Reference Section 1.1.1:

A written order for a minor change in the Work may also be issued by the Owner's Construction Manager as provided in Section 2.1.1.5 of these Supplementary Conditions.

2. Reference Section 1.1.2; Add Sections:

1.1.2.1 All contracts awarded by the State are subject to access by the State, National Guard Bureau, The Comptroller General of the United States, or any of their duly authorized representatives. This includes books, documents, papers, etc., and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audits, examinations, excerpts, and transcriptions.

1.1.2.2 Regulations for proper operation and administration of construction contracts: Code of Federal Regulations (CFR), provide solicitation provisions and contract clauses that pertain to this Project. A copy of these regulations are not bound herein, but are included by reference. Copies may be reviewed in the State Comptroller Office, Building 3465 (W-41), Camp Dodge, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824.

3. Reference Section 1.2.1; Add Section:

1.2.1.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

- .1 Modifications
- .2 The Agreement.
- .3 Addenda, with those of later date having precedence over those of earlier date.
- .4 The Supplementary Conditions.
- .5 The General Conditions of the Contract for Construction.
- .6 Division 1 of the Specifications.
- .7 Drawings and Divisions 2-49 of the Specifications.
- .8 Other documents specifically enumerated in the Agreement as part of the Contract Documents.

In the case of conflicts or discrepancies between Drawings and Division 2-49 of the Specifications or within or among the Contract Documents and not clarified by Addendum, the Architect will determine which takes precedence in accordance with Sections 4.2.11, 4.2.12, and 4.2.13. In instances where conflict or discrepancy involves quality or quantities, the better quality or greater quantity of work will take precedence.

4. Reference Section 1.5; Delete Section 1.5.1 and substitute the following:

1.5.1 All Drawings, Specifications, and other Instruments of Service, and copies thereof, including those in electronic form, are and shall remain the Owner's property with the exception of one contract set for each party to the Contract.

5. Reference Section 1.5; Delete Section 1.5.2 and substitute the following:

1.5.2 The Drawings, Specifications and other Instruments of Service prepared by the Owner or Architect and Architect's consultants, and copies thereof furnished to, or made by, the Contractor, are for use solely with respect to this Project. They are not to be reproduced or used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of Work without the specific written consent of the Owner.

REFERENCE ARTICLE 2 - OWNER

6. Reference Section 2.1.1; Add Sections:

2.1.1.1 Unless otherwise indicated, the term Owner where referred to in the Contract Documents shall mean The Armory Board for the Iowa Army National Guard – Adjutant General Chairman.

2.1.1.2 The Owner's Representative shall be the State Contracting Officer for the Iowa Army National Guard – State Comptroller Office, executing the Contract on behalf of the State and any other officer or civilian employee properly designated Contracting Officer.

The Owner's Representative hereby authorizes the following persons to represent the Owner in the fulfillment of their respective duties as hereinafter described:

1. The Architect
2. The Owner's Construction Manager

2.1.1.3 Duties of the Owner's Representative

1. The Owner's Representative is authorized to act on behalf of the Owner and shall fulfill the duties, rights and obligations of the Owner under the Contract Documents.
2. The Owner's Representative will prepare and initiate Contract Change Orders in accordance with Section 7.2.
3. The Owner's Representative will have authority to reject Work that does not conform to the Contract Documents in accordance with Section 4.2.6 after review with the Architect.

2.1.1.4 Duties of the Architect

1. The Architect is as defined in Section 4.1.1 and shall provide administration of the Contract as described in the Contract Documents.

2.1.1.5 Duties of the Construction Manager

1. The Owner's Construction Manager shall act on behalf of the Owner in all daily actions and communication in accordance with Section 4.2.4.
2. The Owner's Construction Manager shall be responsible for communication and coordination of concerns of the Project to and from all persons within the Owner's organization.
3. The Owner's Construction Manager shall observe the progress of the Work and report any observed deviations from the Contract Documents to the Architect for a determination. The Owner's Construction Manager is not authorized to permit deviations from the Contract Documents.

4. The Owner's Construction Manager shall assist in coordinating the Contractor's operations with those of the Owner. The Owner's Construction Manager, however, shall not perform any duties for the Contractor.
 5. The Owner's Construction Manager shall have the authority to, and may issue an order for a minor change in the Work in accordance with Section 7.4 after review with the Architect.
7. Reference Section 2.2; Delete Section 2.2.5 and substitute the following:

2.2.5 The Owner will furnish the Contractor 25 copies of the Contract Documents. Additional reproductions may be made by the Contractor pursuant to Section 1.5.2.
8. Reference Section 2.2; Add Section:

2.2.6 The Owner will procure and bear costs of Special Inspections if required by applicable building codes for the project. See Section 13.5.1.1 of these Supplementary Conditions for additional requirements.

REFERENCE ARTICLE 3 - CONTRACTOR

9. Reference Section 3.1.1; Add Section:

3.1.1.1 Under Chapter 91C of the Iowa Code (1989), any construction contractor performing work in Iowa (including out-of-state contractors) is required to register with the Iowa Division of Labor. (See Article 11 of the Instructions to Bidders).
10. Reference Section 3.2.1; Add Section:

3.2.1.1 The Contract is executed as set forth in the Instructions to Bidders.
11. Reference Section 3.2; Add Sections:

3.2.5 Figured dimensions on the Drawings shall be used in preference to scaling the Drawings. If Contractor scales Drawings, dimensions so obtained shall be the sole responsibility of the Contractor.

3.2.6 Where the Work of the Contractor is affected by finish dimensions of manufacturer's equipment, the finish dimension shall be determined by the Contractor, who shall assume the responsibility for proper coordination.

3.2.7 If in the opinion of the Contractor it is not reasonably possible to provide first-class Work by following the procedures and requirements detailed or specified in the Contract Documents, the Contractor shall make a written request for interpretation to the Architect outlining the conditions and concerns. The Contractor shall not proceed with the portion of the Work in question until a response has been received from the Architect. The Architect shall respond with reasonable promptness.
12. Reference Section 3.3; Add Sections:

3.3.4 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties performed by the Owner or Architect in the Administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.5 The Contractor shall perform the Work so as to cause a minimum of inconvenience to and interruption of the Owner's operations. Any and all interruptions of the operations of the Owner necessary for the performance of the Work shall be noted in the progress schedule and the Contractor shall additionally give the Owner sufficient advance notice of such interruptions as to allow the Owner time to adjust its operations accordingly. Contractor's failure to give the Owner timely notice of such intentions shall place the responsibility for any resulting delays, additional costs, or other liabilities solely with the Contractor.

3.3.6 Prior to commencing the Work under the Contract, the Contractor shall contact all affected entities supplying utilities and arrange for the moving of such utility installations as is necessary for the performance of the Work. It shall be the responsibility of the Contractor to coordinate the Work with that of the affected entities in such a manner as to cause the least possible interference.

13. Reference Section 3.4.1; Add Section:

3.4.1.1 By virtue of statutory authority, give preference to Iowa domestic labor and materials in the execution of the Work, in accordance with provisions of Chapter 73, Code of Iowa, 1962, and amendments including Senate File 2160, dated April 11, 1984. Machinery, equipment, materials and articles installed or used without such approval are at risk of subsequent rejection.

14. Reference Section 3.4.2; Add Section:

3.4.2.1 After the Contract has been executed, the Owner and Architect will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications).

15. Reference Section 3.5; Add Sections:

3.5.1 This warranty shall be for the period specified in the Contract Performance and Payment Bond unless a longer period is required elsewhere in the Contract Documents for certain portions of Work, in which case the longer period shall govern.

3.5.2 The general warranty provided herein is in addition to and not in limitation of the Contractor's obligations under Section 12.2 and any other warranty or remedy provided by law or by the Contract Documents.

3.5.3 The Contractor will furnish maintenance and 24-hour call-back service for the equipment provided and/or installed by the Contractor for a period of 3 months after the date of Substantial Completion. This maintenance and service will include repair and regular examinations of the equipment and installation by competent and trained employees of the Contractor, and all necessary adjustments, greasing, oiling, cleaning, supplies and parts required to keep the equipment in proper operations, except such parts made necessary due to misuse, accidents, or negligence not caused by the Contractor, Subcontractors, or Sub-subcontractors.

16. Reference Section 3.6; Delete Section and substitute the following:

3.6 TAXES

3.6.1 This project is TAX EXEMPT.

.1 The Iowa Department of Public Defense (DPD) is a registered Designated Exempt Entity (DEE) with the Iowa Department of Revenue (IAC chapter 701 - 19.12.) As a DEE, all contractors that are awarded a contract with the Department are issued a tax-exempt certificate for each project that allows the purchase of building materials or withdraw of inventory without incurring a state sales tax. This special exemption certificate would also allow a manufacturer of building materials to consume materials in the performance of a construction contract with a designated exempt entity, without owing tax on the fabricated cost of those materials.

.2 All Contractors responding to a DPD request for proposal should take this in to consideration when figuring out the cost of materials in the project proposal. Refunds for state sales tax on building materials will not need to be considered in the proposal and are discouraged. For more information please refer to:

<https://tax.iowa.gov/construction-contracts-designated-exempt-entities>

.3 If the contract includes machinery or equipment, the contractor must purchase it for resale and give the supplier a regular exemption certificate (issued from DPD). The contractor should not charge sales tax on machinery and equipment sold to DPD.

17. Reference Section 3.7.2; Add Section:

3.7.2.1 Compliance with the above shall not preclude the establishment of and compliance with non-conflicting higher standards as may be specified or indicated elsewhere in the Contract Documents.

18. Reference Section 3.7.4; Add Sections:

3.7.4.1 The conditions described in the first sentence include any conditions which the Contractor will consider as the basis for a claim for extra compensation and include but are not limited to materials containing asbestos, polychlorinated biphenyl (PCB), or other hazardous materials.

3.7.4.2 By failing to give notice within the time allotted above, the Contractor waives all rights for extra compensation of any kind arising out of the concealed or unknown conditions.

19. Reference Section 3.7.5; Modify Section by adding the underlined words, so that the section now reads as follows:

3.7.5 If, in the course of the Work, the Contractor knowingly encounters and recognizes human remains, burial markers, archeological sites or previously undelineated wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence or good faith belief of such existence of such remains or features may be made as provided in Article 15.

20. Reference Section 3.7; Add Sections:

3.7.6 See Section 10.7 of these Supplementary Conditions for Stormwater Pollution Prevention Plan and Permit requirements.

3.7.7 The Contractor must recognize mandatory standards and policies relating to energy efficiency contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

21. Reference Section 3.9.1; Modify the first sentence by adding the underlined words, so that the first sentence now reads as follows:

3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work (including work performed by subcontractors).

22. Reference Section 3.9; Add Section:

3.9.4 The superintendent shall organize and coordinate scheduling of the Work and shall review and coordinate Work between the trades/Subcontractors.

23. Reference Section 3.10.2; Delete the last sentence.

24. Reference Section 3.13; Add Sections:

3.13.1 The Contractor shall provide any additional facilities or areas beyond those areas permitted at the site as required for construction operations or storage of materials at no additional cost to the Owner.

3.13.2 The Contractor shall take all necessary precautions to prevent damage to pipes, conduits, and other underground structures. The Contractor shall protect from disturbance or damage all monuments and property marks until an authorized agent of the Owner has witnessed or otherwise

referenced their location and the Contractor shall not remove such marks or monuments until directed.

25. Reference Section 3.15; Delete Sections 3.15.1 and 3.15.2 and substitute the following:

3.15.1 The Contractor shall at all times keep the site of the Work and adjacent premises as free from materials, debris, rubbish and trash as practical and shall remove same from any portion of the site and adjacent premises if, in the opinion of the Owner, such materials, debris, rubbish or trash constitute a nuisance or are in any way objectionable to the public. The Contractor shall be responsible for the timely removal of dirt accumulations or any other debris on access roads and public streets and highways resulting from the Contractor's operations.

3.15.2 At the completion of the Work, the Contractor shall remove all materials, implements, staging, piling falsework, debris and rubbish connected with or caused by operations for such Work immediately upon completion of that Work and shall leave the premises in perfect condition insofar as affected by the Work under the Contract. Fires for disposal of rubbish on the site are prohibited.

3.15.3 If the Contractor should fail to clean up the premises as provided in the Contract Documents, the Owner, after giving the Contractor forty-eight hours notice, may do so and Owner shall be entitled to reimbursement from the Contractor.

26. Reference Section 3.16; Add Section:

3.16.2 The Contractor shall furnish the Owner and Architect all necessary assistance to facilitate inspections throughout the process of manufacture or construction, or for the examination of any materials entering into the Work, or for any other purpose required in the discharge of the Owner or Architect's duties.

27. Reference Section 3.18; Add Sections:

3.18.3 The obligations of the Contractor under Section 3.18 shall not extend to the liability of the Owner and its consultants, its agents or employees arising out of: (1) the preparation or approval of maps, Drawings, opinions, reports, surveys, Contract Change Orders, designs or specifications, or (2) the giving of or failure to give directions or instructions by the Owner, its agents or employees providing such giving or failure to give directions or instructions is the primary cause of the injury or damage.

3.18.4 The Contract Documents define claims, damage, losses, and expenses as, but do not limit them to: (1) injury or damage consequent upon the failure of or use or misuse by the Contractor, its Subcontractors, agents, servants, or employees, of any hoist, rigging, blocking, scaffolding, or any and all other kinds of items of equipment furnished or loaned by the Owner; (2) all attorneys' fees and costs incurred in defense of the claim or in bringing an action to enforce the provision of this indemnity or any other indemnity contained in the Contract Documents; and (3) all costs, expenses, lost time, opportunity costs, etc., incurred by the party being indemnified or its employees, agents, or consultants.

3.18.5 The indemnification obligations of the Contractor under this Contract does not extend to the liability of the Owner, any Owner's consultants, or their agents, consultants, or employees arising out of their own negligence.

3.18.6 If trade unions perform the Work or any portion of the Work, the Contractor shall make all necessary arrangements to reconcile without delay, damage or cost to the Owner and its consultants, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils which regulate or distinguish what activities are not included in the work of any particular trade. If this affects the progress of the Work in finishing or installing any items or materials or equipment required under the Contract Documents because of the conflict involving any such agreement or regulation, the Owner or its consultants may require that the Contractor provide other material or equipment of equal kind and quality at no additional cost to the Owner.

REFERENCE ARTICLE 4 - ADMINISTRATION OF THE CONTRACT

28. Reference Section 4.2.2; Add Section:

4.2.2.1 The presence or absence of an Owner's Representative or the Architect on the site for the purpose of inspection shall not relieve the Contractor from any obligations to perform the Work in accordance with the requirements of the Contract Documents.

29. Reference Section 4.2.6:

The Owner will also have the authority to reject Work as provided in Section 2.1.1.3 of these Supplementary Conditions.

REFERENCE ARTICLE 5 - SUBCONTRACTORS

30. Reference Section 5.3; Add Sections:

5.3.1 Such agreements between the Contractor and each Subcontractor (and where appropriate between Subcontractors and Sub-subcontractors) shall also contain provisions that:

.1 require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a party, in reasonable time to enable the Contractor to apply for payment in accordance with Article 9;

.2 require that all Claims for additional costs, extensions of time, damages for delays or other claims with respect to subcontracted portions of the Work shall be submitted to the Contractor (via any Subcontractor or Sub-subcontractor where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like Claims by the Contractor against the Owner;

.3 waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by property insurance described in Article 11, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee;

.4 inform Subcontractors of their rights under Chapter 573, Code of Iowa; and

.5 obligate each Subcontractor to consent specifically to the provisions of Section 5.2.

5.3.2 In accordance with Section 573.12 of the Code of Iowa, the Contractor will make prompt payments to Subcontractors for satisfactory performance of the Work.

REFERENCE ARTICLE 6 - CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

31. Reference Section 6.1.3; Add Section:

6.1.3.1 The Contractor shall be responsible for furnishing accurate information for and participating in the development of a realistic Project schedule.

32. Reference Section 6.2.4; Add Section:

6.2.4.1 Should the Contractor cause damage to the Work or property of any separate contractor or be the cause of delay or failure to perform, the Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates an arbitration proceeding against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings, and if any judgment or award against the Owner arises therefrom the contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or arbitration costs which the Owner has incurred.

33. Reference Section 6.2; Add Sections:

6.2.6 Claims and other disputes and matters in question between the Contractor and separate contractors are subject to the provisions of Section 15.3 and 15.4 provided the separate contractor has reciprocal obligations.

6.2.7 The Contractor shall execute all Work in such manner and in such order, or procedure, as will permit the commencement and carrying on of the Work of the Owner and of separate contractors with the least interference possible using a reasonable procedure whenever it is necessary or desirable to execute such work either simultaneously with the Work under Contract, or otherwise. To this end the Contractor shall cooperate and assist the Owner and separate contractors in every reasonable way, and shall interfere as little as possible with their Work. The Contractor shall move, free of charge, the Contractor's plant equipment and materials or any part of same whenever the Owner considers it reasonable and necessary for the work of the Owner or separate contractors.

REFERENCE ARTICLE 7 - CHANGES IN THE WORK

34. Reference Section 7.1.2; Add Section:

7.1.2.1 The Owner's Construction Manager shall also have authority to act alone in issuing an order for a minor change in the Work as provided in Section 2.1.1.5 of these Supplementary Conditions.

35. Reference Section 7.1; Add Sections:

7.1.4 The pricing of changes in the Work which result in an adjustment to the Contract Sum shall be limited to the Contractor's direct expenses as defined in Sections 7.3.7.1 through 7.3.7.5, plus the applicable percentage of overhead and profit subject to the following limits:

.1 Fifteen percent (15%) maximum mark-up for Work directly performed by employees of the Contractor, Subcontractor, or Sub-subcontractor.

.2 Five percent (5%) maximum Contractor's mark-up for Work performed or passed through by a Subcontractor and passed through to the Owner by the Contractor.

.3 Five percent (5%) maximum Subcontractor's mark-up for Work performed by a Sub-subcontractor and passed through to the Owner by the Subcontractor and Contractor.

.4 The maximum allowable mark-up is twenty-five percent (25%) passed through to the Owner by the Contractor under any circumstances.

7.1.5 Prices shall include all subcontracts and shall be itemized as follows:

.1 Labor costs shall indicate trade, hourly rate, man hours, and total costs.

.2 Materials, supplies and equipment costs shall indicate unit cost, quantity, and total cost for each item.

.3 Machinery and equipment costs shall indicate machinery or equipment type, number of each, hourly rate, and total cost for each item.

7.1.6 The Contractor shall be allowed no additional compensation for any costs, fees or expenses incurred in performing services already required by the Contract for Construction, and shall not be entitled to additional reimbursement for its home office, other non-job site or indirect overhead expenses, or tools necessary for construction.

7.1.7 Any request for time extension as a result of the Change in Work must be justified and presented in adequate detail showing that the proposed change will delay the final Contract completion date.

7.1.8 Contractor shall not apply sales, consumer, use and similar tax charges incurred for material purchases in charges toward the overhead and profit percentage.

7.1.9 The following definitions shall be used in establishing process for Changes in Work:

.1 Direct expense is the Contractor's actual cost of any item that is easily defined as a required item for the completion of his Contract obligation.

.2 Overhead is a business expense created by the Project but not necessarily a direct part of that portion of the Work involved.

.3 Profit is the compensation accruing to the Contractor for the assumption of risk in a business enterprise.

36. Reference Section 7.2.1; Delete Section and substitute the following:

7.2.1 A Change Order is a written instrument prepared by the Owner and signed by the Owner and Contractor stating their agreement upon all of the following:

37. Reference Section 7.4; Add Section:

7.4.1 The Owner's Construction Manager shall also have authority to issue an order for a minor change in the Work as provided in Section 2.1.1.5 of these Supplementary Conditions.

REFERENCE ARTICLE 8 - TIME

38. Reference Section 8.2; Add Section:

8.2.4 In the event the Contractor fails to maintain the schedule, including accepted revisions, the Contractor shall promptly, at no additional cost to the Owner, increase work forces, increase hours, and/or initiate revisions to means and methods of construction as required to make up lost time and complete the Work in accordance with the construction schedule.

REFERENCE ARTICLE 9 - PAYMENTS AND COMPLETION

39. Reference Section 9.3.1; Add the following sentence to Section 9.3.1:

The Form of Application for Payment shall be a current authorized edition of AIA Document G702 – 1992, Application and Certificate for Payment, supported by a current authorized edition of AIA Document G703 – 1992, Continuation Sheet. One copy of each Application for Payment shall be submitted electronically in .pdf format via email to the Architect or, if applicable, uploaded to the project website for each progress payment.

40. Reference Section 9.3.1; Add Sections:

9.3.1.3 Applications for Payment shall be submitted once a month.

9.3.1.4 The Owner will withhold until final payment, retainage in an amount consistent with the provisions of Section 573.12, 573.13, and 573.14 of the Code of Iowa.

41. Reference Section 9.5.1; Add Section:

9.5.1.8 third party claims filed pursuant to Chapter 573 of the Iowa Code.

42. Reference Section 9.5.3; Delete section in its entirety.

43. Reference Section 9.6.4; Delete the first two sentences.

44. Reference Section 9.8.5; Delete the second sentence and substitute the following:

Upon such acceptance and consent of surety, if any, the Owner shall make payment sufficient to increase the total payments to ninety-five percent (95%) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims.

45. Reference Section 9.10.1; Add Section:

9.10.1.1 Issuance of a letter of Final Acceptance by the Owner shall establish the commencement of the thirty-day period during which the Owner retains final payment of the balance due under the Contract under Iowa law and per provisions of this Agreement. If at the end of such thirty-day period, claims are on file with the Owner, the Owner will withhold a sum equal to double the total amount of claims on file or five percent (5%) of the Contract price, whichever is less, until such claims are released or otherwise adjudicated. The Owner will issue a letter of Final Acceptance to the Contractor upon receipt of the Final Certificate for Payment from the Architect.

46. Reference Section 9.10.2; Add Sections:

9.10.2.1 The Owner will not make final payment until the Contractor has performed final cleanup in accordance with Section 3.15

9.10.2.2 See Division 1 – General Requirements for items to be submitted with the final Application for Payment. The Architect will not issue a final Certificate of Payment until all items indicated are submitted:

REFERENCE ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY

47. Reference Section 10.1; Add Sections:

10.1.1 Accident Prevention: The safety provisions of all applicable laws, building and construction codes shall be observed. Machinery, equipment and all hazards shall be guarded or eliminated in accordance with the safety provisions of the latest edition of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable laws.

10.1.2 The Work shall be governed by applicable provisions of the general law, including the latest amendments of the following:

1. William-Steiger Occupational Safety & Health Act of 1970, Public Law 91-596.
2. Part 1910 – Occupational Safety & Health Standards, Chapter XVII of Title 29, Code of Federal Regulations.
3. Part 1518 –Safety and Health Regulations for Construction, Chapter XIII of Title 29, Code of Federal Regulations.

10.1.3 The Contractor is responsible for conducting a safety program and/or precautions on the project site that assures work on the site is conducted in accordance with all guidelines and requirements of OSHA and other applicable laws, building and construction codes, and sound construction practice. The Contractor shall prepare, implement and enforce a project safety plan for the purpose of maintaining a site where work is conducted in a safe manner. A copy of the safety plan shall be maintained on the site at all times.

48. Reference Section 10.2; Add Sections:

10.2.9 The Contractor must comply with provisions of Section 88.6(1) of the Code of Iowa pertaining to Occupational Safety and Health Administration (OSHA) entrance and inspections which states that the State Labor Commissioner or State Labor Commissioner's representative upon presenting appropriate credentials to the Owner, operator, or agent in charge, is authorized:

- .1** To enter without delay and at reasonable times a factory, plant, establishment, construction site, or other area, work place, or environment where work is performed by an employee of an employer; and
- .2** To inspect and investigate during regular working hours and other reasonable times, and within reasonable limits, and within a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices,

equipment, and materials therein, and to question privately any such owner, operator, agent, or employer.

49. Reference Section 10.3.1; Add Section:

10.3.1.1 The Contractor is not required pursuant to Article 7 to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB).

50. Reference Section 10.3; Add Sections:

10.3.7 Lamps, bulbs and ballasts indicated to be removed by the Contractor, and not indicated to be reused on the project, can be salvaged by the Owner or the Contractor. If not salvaged, the Contractor shall pay any required fees and ensure proper disposal as universal waste (ballasts labeled as "PCB Free" can be disposed as solid waste).

10.3.8 All self-luminous or photo-luminescent (radioactive tritium) exit signs shown to be removed by the Contractor shall be removed without damage and turned over to the Owner for disposal.

10.3.9 The Contractor shall not use asbestos-containing products or materials. Requests for exceptions shall be forwarded by the Contractor to the Owner for approval by the Environmental Branch of the Directorate of Installation Management.

10.3.10 The Contractor shall not knowingly remove, damage or disturb asbestos-containing materials unless required by the project's plans and specifications. Any asbestos abatement identified in the Contract Documents as the responsibility of the Contractor must be performed by properly trained and certified personnel in accordance with all environmental and worker safety regulations.

51. Reference Section 10.3.1; Add Section:

10.3.1.1 The Contractor is not required pursuant to Article 7 to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB).

52. Reference Article 10; Add Sections:

10.5 IOWA HAZARDOUS CHEMICAL RISKS RIGHT TO KNOW LAW:

10.5.1 Owner's Responsibility. Upon request, the Owner will provide to the Contractor a list of known hazardous chemicals within the Project Site to which their employees may be exposed and suggestions for appropriate protective measures.

10.5.2 Contractor's Responsibility. Contractor must inform his/her employees of the Iowa Hazardous Chemical Risks Right to Know Law.

10.5.3 The Contractor must provide to the Owner a list of known hazardous chemicals that they anticipate using on site as well as other pertinent information relating to employee protection. Contractor's Material Safety Data Sheets (MSDS) must be available to the Owner upon request.

10.7 POLLUTION PREVENTION PROCEDURES

10.7.1 The following pollution prevention procedures shall apply to all Contractors working on Iowa Army National Guard projects:

.1 Spill Prevention and Response: The Contractor shall take adequate precautions to prevent spills of hazardous chemicals, oils, and fuels. The Contractor shall have procedures in place to immediately clean up all spills that could occur on the job site or during transportation to and from the job site. Expenses incurred in the spill cleanup shall belong to the Contractor. Specifically:

- .a When liquid hazardous chemicals, oils, or fuels are stored on the job site, the contractor shall provide secondary containment, for containers with 55 gallon capacity or greater, equal to or greater than 110% of the volume of the single largest container.

.b The Contractor shall notify the Iowa Army National Guard Environmental Branch in the event of a spill of chemicals, oils or fuels. The Contractor must have sufficient resources on the work site to clean up a spill. All workers at the site shall know whom the Contractor point of contact is and what they are to do in the event of a spill.

.c The point of contact for the Environmental Branch is:

Shannan Garretson, Environmental Program Manager
Building 3535 (B-61), Camp Dodge
7105 NW 70th Avenue
Johnston, Iowa 50131-1824
Phone: (515) 252-4557
Non-duty Hours Cell Phone (515) 249-5847

.d The Contractor must notify the Iowa Department of Natural Resources and the local sheriff's office of a hazardous substance spill that meets the definition of a "hazardous condition" as defined in the Iowa Administrative Code. Iowa law requires reporting as soon as possible but not later than six hours. Spills meeting the criteria of a "reportable spill" will also require notification of the National Response Center.

10.7.4 Storm Water Pollution Prevention Plans and Permits:

.1 A Storm Water Pollution Prevention Plan and a discharge permit will be required for construction activities resulting in one acre or more soil disturbance.

.2 The Iowa Army National Guard's Director of Installation Management Environmental Branch shall obtain the permit.

.3 The General Contractor, and each subcontractor that has a responsibility described in the plan, will be a co-permittee with the Owner. The General Contractor shall be responsible for compliance with and fulfilling all requirements of the NPDES General Permit Number 2, including the Storm Water Pollution Prevention Plan.

.4 The initial Storm Water Pollution Prevention Plan and Notice of Intent will be provided by the Owner. These and the General Contractor's project inspection diary must be kept on-site and presented to federal, state and local environmental regulatory personnel, and the Owner, when requested.

.5 The General Contractor will provide an individual experienced with storm water pollution prevention plans and techniques to conduct weekly and rainfall inspections of the construction site and review the project's Storm Water Pollution Prevention Plan at the time of each inspection. The General Contractor is responsible for maintaining a copy of each inspection report. The General Contractor will review the weekly and rainfall storm water inspection reports and address any deficiencies within seven days. Deficiencies may also be identified by the Owner at any time. Corrective actions may include installation of additional erosion controls and/or maintenance of existing controls.

.6 If the Contractor should fail to conduct inspections, create reports, maintain the project inspection diary, and address deficiencies, the Owner, after giving the Contractor forty-eight hours notice, may do so and the Owner shall be entitled to reimbursement from the Contractor.

The General Contractor shall be responsible for continuing compliance with all SWPPP requirements until final stabilization is achieved regardless of whether Substantial Completion has been granted or the Owner has occupied any portion of the site or facility. Such practices shall include, but not be limited to, inspections and reports and maintenance of erosion control measures as described above.

.7 The Owner will file a Notice of Discontinuation upon final stabilization of the disturbed area. The General Contractor will provide the original project inspection diary

and the marked-up copy of the Storm Water Pollution Prevention Plan to the Owner at the completion of the project.

10.7.5 Removal of Regulated Wastes:

.1 At the completion of the construction project, the Contractor will be required to remove all waste and unused hazardous chemicals including, but not limited to: solvents, adhesives, paints, and fuels. Said materials shall be properly identified, containerized and, if no longer usable, disposed at the Contractor's expense.

REFERENCE ARTICLE 11- INSURANCE AND BONDS

53. Reference Section 11.1; Add Sections:

11.1.5 Insurance: No prime Contractor shall commence work under this contract until he/she has obtained all insurance required under this Section and until such insurance has been approved by the Owner, nor his/her sub-contractor until all similar insurance required of the subcontractor has been obtained and approved. No policy of insurance which is cancelable on less than 30 days written notice to the insured is satisfactory to the Owner's Representative.

11.1.6 Compensation and Employer's Liability Insurance: The Contractor shall take out and maintain during the life of this Contract the Statutory Workmen's Compensation and Employer's Liability Insurance for all of his/her employees to be engaged in work on the project under this Contract, and in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for all of the latter's employees to be engaged in such work.

11.1.7 Bodily Injury Liability and Property Damage Liability Insurance: Each prime Contractor shall take out and maintain during the life of the Contract such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her and any subcontractor performing work covered by the Contract from claims for damage for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Contract, whether such operations be by him/herself or by any subcontractor or by anyone directly or indirectly employed by either of them and the amount of such insurance shall be no less than:

.1 Public Liability Insurance, in an amount no less than Two Hundred Fifty Thousand Dollars (\$250,000.00), for injuries including wrongful death to any one person, and subject to the same limit for each person in any amount not less than Five Hundred Thousand Dollars (\$500,000.00) on account of one accident.

.2 Property Damage Insurance, in a minimum amount of Five Hundred Thousand Dollars (\$500,000.00) on for damages on account of all accidents other than automobile property damage accidents.

.3 Motor Vehicle Bodily Injury Liability in a minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), per occupant and Five Hundred Thousand Dollars (\$500,000.00) per accident on account of any one automobile accident."

11.1.8 Insurance Certificates: Each prime Contractor shall furnish certificates of insurance listed above to the Owner and they shall also be subject to the Owner's approval for adequacy of protection."

11.1.9 Owner's Protective Liability Insurance: Each prime Contractor shall take out and furnish to the Owner and maintain during the life of this Contract, complete Owner's Protective Liability Insurance in amounts as specified in Section 11.1.7 above, for Bodily Injury Liability Insurance and for Property Damage Liability Insurance."

11.1.10 All insurance coverage must be provided by insurance companies having policy holder ratings no lower than "A" and financial ratings not lower than "XII" in the Best's Insurance Guide, latest edition in effect as of the date of the Contract.

11.1.11 The required limits of liability may be met by using a split-limit or a combined single limit basis. However, the total limit of liability cannot be less than that stated in the requirements.

54. Reference Section 11.3; The Contractor is directed to purchase and maintain Builder's Risk insurance. Modify Section 11.3 and subsections as follows:

- a. Modify the first sentence of Section 11.3.1 as follows: Delete "Unless otherwise provided, the Owner" and substitute "The Contractor". Add the following sentence:
If the Owner is damaged by the failure of the Contractor to purchase and maintain such insurance without so notifying the Owner in writing, then the Contractor shall bear all reasonable costs attributable thereto.
- b. Delete Section 11.3.1.2.
- c. Modify Section 11.3.1.3 by substituting "Contractor" for "Owner".
- d. Modify Section 11.3.2 by substituting "Contractor" for "Owner" at the first reference to "Owner".
- e. Delete Section 11.3.4.
- f. Modify Section 11.3.6 by making the following substitutions: (1) in the first sentence, substitute "Contractor" for "Owner" and "Owner" for "Contractor", and (2) substitute "Owner" for "Contractor" at the end of the last sentence.
- g. Modify Section 11.3.7 by substituting "Contractor" for "Owner" at the end of the first sentence.
- h. Modify Section 11.3.8 by substituting "Contractor" for "Owner"; each time the latter word appears except that at the first reference to "Owner" in the first sentence, the word "this" should be substituted for "the Owner's".
- i. Modify Section 11.3.9 by substituting "Contractor" for "Owner" each time the latter word appears except at the third occurrence in the third sentence and in the last sentence.
- j. Modify Section 11.3.10 by substituting "Contractor" for "Owner" each time the latter word appears except at the third occurrence in the first sentence and in the first occurrence in the last sentence.

55. Reference Section 11.4; Delete Section 11.4.1 and substitute the following:

11.4.1 The Contractor shall furnish bonds on the date of execution of the Contract covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Bidding Requirements or specifically required in the Contract Documents. The bond shall be on the form prescribed in the Bidding Requirements and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

.1 The Contractor shall deliver the required bonds to the Owner simultaneously with the delivery of the executed Contract.

.2 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

56. Reference Section 11.4; Add Section:

11.4.3 If any surety upon any bond furnished in connection with this Contract becomes unacceptable to the State, or if any such surety fails to furnish reports as to their financial condition from time to time as additional security as may be required from time to time to protect the interests of the State or of persons supplying labor or materials in the prosecution of the Work contemplated by the Contract, the State may terminate the Contract.

REFERENCE ARTICLE 12- UNCOVERING AND CORRECTION OF WORK

57. Reference Section 12.1.2; Add Section:

12.1.2.1 If the condition noted in Section 12.1.2 above was caused by a separate contractor, the Contractor shall first attempt to reach settlement with the separate contractor as provided in Article 6.

58. Reference Section 12.2.2; Add the following sentence to Section 12.2.2.1:

The obligations of the Contractor under this Section shall survive termination of the Contract.

59. Reference Section 12.2.2; Add Sections:

12.2.2.4 Upon request by the Owner and prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

12.2.2.5 If it becomes necessary for the Contractor to replace an item after Substantial Completion under the terms of the Contract Documents, the warranty period of time for the replacement shall begin with the date of the completion of the replacement.

12.2.2.6 If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice, the Owner may remove it and store the salvageable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may, upon ten (10) additional days written notice, sell such materials and equipment and account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation of the Owner's services and expenses made necessary by this action. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum will be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor must pay the difference to the Owner.

REFERENCE ARTICLE 13 - MISCELLANEOUS PROVISIONS

60. Reference Section 13.1; Delete the words following "...where the Project is located".

61. Reference Section 13.5.1; Add Section:

13.5.1.1 Special Inspections, if required for this Project by the Contract Documents, will be procured and paid for by the Owner. The duties and responsibilities of the Contractor in regard to Special Inspections shall be as defined in the General Requirements of the Contract Documents. Special Inspections, if required, are separate and distinct from other Tests and Inspections required by the Contract Documents which shall be procured and paid for by the Contractor under the provisions of Section 13.5.

62. Reference Section 13.6; Delete Section 13.6 and substitute the following:

13.6 INTEREST: Payments due and unpaid under the Contract Documents shall bear interest in accordance with Section 573.12 and 573.14 of the Code of Iowa.

63. Reference Section 13.7; Delete Section in its entirety and substitute the following:

13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 As between the Owner and Contractor:

.1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;

.2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and

.3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Section 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Section 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

64. Reference Article 13; Add Sections:

13.8 ENERGY REBATE FORM(S)

13.8.1 The Contractor shall obtain Energy Rebate Forms from all applicable utility providers for the Work. The Contractor shall partially complete and sign the rebate forms; providing the information identified below. The Contractor shall submit the rebate forms with the Application for Final Payment as directed in Article 9.

Lighting:

1. List brand name & model number of fixture(s).
2. List number of fixtures installed.
3. Provide a copy of invoice(s) from supplier to Contractor.
4. Provide Contractor signature.
5. Note: Owner will provide remaining information such as account number, age and size of facility, hours of operation, etc.

HVAC:

1. List manufacturer, size, efficiency, model number, serial number, and installed cost of unit(s). Include manufacturer, model, and installed cost of programmable thermostats.
2. Provide a copy of invoice(s) from the Supplier to Contractor.
3. Provide Contractor signature.
4. Note: Owner will provide remaining information such as account number, age and size of facility, hours of operation, etc.

Motors:

1. List variable speed drive information including manufacturer, model number, serial number, rating, efficiency, equipment cost, and installation cost.
2. List NEMA Premium motor information including manufacturer, model number, serial number, HP rating, efficiency, motor speed, and motor and installation cost.
3. Provide a copy of invoice(s) from the Supplier to Contractor.
4. Provide Contractor signature.
5. Note: Owner will provide remaining information such as account number, age and size of facility, hours of operation, etc.

13.9 MANUFACTURER'S DIRECTIONS

13.9.1 Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned as directed by the manufacturer unless herein specified to the contrary.

13.9.2 Any additional costs incurred as a result of this requirement shall be borne by the Contractor.

13.10 CODE OF FAIR PRACTICES

13.10.1 During the performance of this Contract, the Contractor agrees as follows:

.1 The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, or physical or mental disability, or status as a Vietnam-era disabled veteran. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, religion, national origin, sex, age, physical or mental disability, or status as a Vietnam-era disabled veteran except where it relates to a bona fide occupational qualification. Such action includes but is not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or terminations, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the Owner setting forth provisions of the nondiscrimination clause.

.2 The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sex, age, physical or mental disability, or status as a Vietnam-era disabled veteran except where it relates to a bona fide occupational qualification.

.3 The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under this nondiscrimination clause and post copies of the notice in conspicuous places available to employees and applicants for employment.

.4 The Contractor will comply with all relevant provisions of the Iowa Civil Rights Act of 1965, as amended by Iowa Executive order #15 of 1973, as amended by Iowa Executive Order #34 of 1988; Federal Executive Order 11246 of 1965, as amended by Federal Executive Order 11375 of 1967; the Equal Employment Opportunity Act of 1972; and all provisions relevant to fair application of the rules and regulations of the Owner. The Contractor will furnish all information and reports requested by the Owner or required by or pursuant to the rules and regulations thereof and will also permit access to its payroll and employment records by the Owner or representatives for purposes of investigation to ascertain compliance with such rules, regulations, or requests, or with this nondiscrimination clause.

.5 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the aforesaid rules, regulations, or requests, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with the Owner. In addition, the Owner may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Iowa Civil Rights Act of 1965 as amended, Chapter 601A, Code of Iowa, as heretofore and hereafter amended, or by the rules and regulations of the Owner or as otherwise provided by law.

.6 The Contractor will include the provisions of this section of Article 13 hereof in every subcontract and purchase order unless specifically exempt by approval of the Owner, in accordance with the rules and regulations, so that such provisions will be binding on each Subcontractor and vendor. The Contractor will take such action with respect to any Subcontractor or purchase order as the Owner or the authorized representative thereof may direct as a means of enforcing such provisions including sanctions for noncompliance; provided however, that in the event the Contractor becomes involved in, or is threatened with, litigation by a Subcontractor or vendor as a result of such direction by the Owner, the Contractor may request the State of Iowa to enter into such litigation to protect the interests of the State of Iowa.

REFERENCE ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT

65. Reference Section 14.3; Add Section:

14.3.3 Adjustments made for increases in the cost may have a mutually agreed fixed or percentage fee.

66. Reference Section 14.4; Delete Section 14.4.3 and substitute the following:

14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive from the Owner, payment for Work executed and for proven loss with respect to material, equipment, tools, and construction equipment and machinery, including reasonable overhead and profit. The Contractor shall transfer title to Owner and deliver in the time, place and manner as directed by the Owner, all fabricated and unfabricated parts, Work-in-process, completed Work, supplies and other materials produced as part of, or acquired in connection with the discontinued Work, and other property which would have been required to be furnished to Owner if the Contract had been completed.

67. Reference Article 14; Add Section:

14.5 MISCELLANEOUS TERMINATION

14.5.1 Funding: If the Bidding Requirements indicate Federal funding for this project is received from the Federal Government prior to award of the Contract and such Federal funding is not received within the thirty (30) day bid guarantee after the date of receiving bids, all rights and obligations to enter into a Contract are considered null and void.

14.5.2 Provisions of law as contained in Chapter 573A of the Code of Iowa, current edition (which pertains to termination of contracts for construction of public improvements when Work thereon is stopped because of a national emergency), applies to and is a part of this Contract and binding upon all parties hereto, including Subcontractors and sureties.

REFERENCE ARTICLE 15 – CLAIMS AND DISPUTES

68. Reference Section 15.1.5.1; Add Section:

15.1.5.1.a The Contractor shall not be entitled to an increase in the Contract Sum as a result of any delays in the progress of the Work. The Contractor's sole remedy for delay is an extension of time, extended by Change Order for such reasonable time as proposed by the Contractor and approved by the Owner.

END OF DOCUMENT 00 73 00